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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,532	11/15/2001	Kenneth L. Stanwood	ENSEMB.031A	3108
20995	7590	08/16/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			GREY, CHRISTOPHER P	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			2667	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/991,532	<b>Applicant(s)</b> STANWOOD ET AL.	
	<b>Examiner</b> Christopher P. Grey	<b>Art Unit</b> 2667	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-64 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-22, 26-38, 39-41 and 44-56, drawn to synchronizing and re-synchronizing terminals with a preamble broadcasted from a base station, classified in class 370 subclass 478.
  - II. Claim 23-25, drawn to a method for conveying data over a communication link by establishing and transmitting a downlink map, classified in class 455, subclass 450.
  - III. Claims 42 and 43 are drawn to a method for scheduling modulation/forward error correction modes by grouping terminals and allocating bandwidth, classified in class 370 subclass 329
  - IV. Claim 57, drawn to a method for scheduling physical slots using a level of robustness, classified in class 375 subclass 346

2. The inventions are distinct, each from the other because of the following reasons:

Inventions from Group I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Group I is drawn to synchronizing and resynchronizing using a broadcast preamble, whereas Group II is drawn to the transmission of downlink maps, which has separate utility. The synchronization and resynchronization as disclosed in Group I does not require the transmission of downlink maps as disclosed by Group II, which verifies separate utility. See MPEP § 806.05(d).

The invention of Group III is distinct from the previously mentioned Groups I and II, as it has separate utility. Group III discloses a method for scheduling modulation/forward error correction, which may be used separately or in combination with either of Groups I or II.

The invention of Group IV is distinct from the inventions of Groups I-III as previously mentioned. Group IV has separate utility in that it is drawn to a method for scheduling physical slots, which may be used separately or in combination with any of the inventions of Groups I-II.

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3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Knobbe, Martens, Olson & Bear, LLP on August 10, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Grey whose telephone number is (571)272-3160. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571)272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Grey  
Examiner  
Art Unit 2667

C. Grey  
8/10/05

  
CHI PHAM  
SUPERVISORY PATENT EXAMINEE  
TECHNOLOGY CENTER 2800 8/12/05